

AMENDED IN SENATE MARCH 29, 2006

SENATE BILL

No. 1378

Introduced by Senator Cox

February 21, 2006

An act to amend Section 655.2 of, *and to add Section 655.8 to*, the Harbors and Navigation Code, relating to harbors and navigation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1378, as amended, Cox. Harbors and navigation: dive flag.

Existing law prohibits the operation of vessels in excess of 5 miles per hour near bathers, as specified, and certain beaches and floats.

This bill would additionally prohibit the operation of vessels in excess of 5 miles per hour within 100 feet of a dive flag, as ~~defined~~ *specified*. By creating a new crime, the bill would impose a state-mandated local program.

The bill also would require a person who is diving or swimming below the water's surface with the aid of a breathing device to ensure that a dive flag is displayed and to remain within 100 feet of the flag.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 655.2 of the Harbors and Navigation Code is amended to read:

655.2. (a) An owner, operator, or person in command of a vessel propelled by machinery is guilty of a misdemeanor who uses it, or permits it to be used, at a speed in excess of five miles per hour in any portion of the following areas not otherwise regulated by local rules and regulations:

(1) Within 100 feet of a person who is engaged in the act of bathing. A person engaged in the sport of water skiing shall not be considered as engaged in the act of bathing for the purposes of this section.

~~(2) Within 100 feet of a dive flag. For the purposes of this section, "dive flag" means a flag at least 12 inches in height by 12 inches in width with a red background and a white diagonal stripe that is one-fifth the width of the flag, which is displayed when a person is diving or swimming below the water's surface with the aid of a breathing device.~~

~~(2) Within 100 feet of a dive flag that meets the requirements of and is displayed as required by Section 655.8.~~

(3) Within 200 feet of any of the following:

(A) A beach frequented by bathers.

(B) A swimming float, diving platform, or lifeline.

(C) A way or landing float to which boats are made fast or which is being used for the embarkation or discharge of passengers.

(b) This section does not apply to vessels engaged in direct law enforcement activities that are displaying the lights prescribed by Section 652.5. Those vessels are also exempt from any locally imposed speed regulation adopted pursuant to Section 660.

SEC. 2. Section 655.8 is added to the Harbors and Navigation Code, to read:

655.8. (a) A person who is diving or swimming below the water's surface with the aid of a breathing device shall ensure that a dive flag is displayed and shall remain within 100 feet of the flag. He or she shall ensure that a dive flag is lowered when not diving or swimming below the water's surface with the aid of a breathing device.

1 ***(b) A dive flag that is displayed on a boat, or a float that is***
2 ***towed by a person who is diving or swimming, shall be***
3 ***positioned at the highest point on the boat or float that will***
4 ***present an unobstructed view from all directions.***

5 ***(c) For the purposes of this section, the following definitions***
6 ***apply:***

7 ***(1) “Display” means the positioning of a dive flag in an***
8 ***upright, vertical position in a manner that presents an***
9 ***unobstructed view from all directions.***

10 ***(2) “Dive flag” means a square or rectangular flag at least 12***
11 ***inches in height by 12 inches in width with a red background and***
12 ***a white diagonal stripe that is one-fifth the width of the flag.***

13 ~~SEC. 2.~~

14 ***SEC. 3.*** No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 the only costs that may be incurred by a local agency or school
17 district will be incurred because this act creates a new crime or
18 infraction, eliminates a crime or infraction, or changes the
19 penalty for a crime or infraction, within the meaning of Section
20 17556 of the Government Code, or changes the definition of a
21 crime within the meaning of Section 6 of Article XIII B of the
22 California Constitution.